

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
MILWAUKEE DIVISION

J&J FISH ON CENTER STREET, INC.,)

Plaintiff,)

v.)

Case No.: 2:20-cv-1644

CRUM & FORSTER SPECIALTY)
INSURANCE COMPANY,)

Defendant.)

COMPLAINT

Plaintiff, J&J Fish on Center Street, Inc. (“J&J”), by its undersigned attorneys, for its complaint against Defendant, Crum & Forster Specialty Insurance Company (“Crum & Forster”), states:

1. J&J is a citizen of Wisconsin, being a Wisconsin corporation with its principal place of business in Milwaukee, Wisconsin.

2. J&J is the owner of the commercial building located at 405 West Center Street in Milwaukee, Wisconsin (“the Building”), operating a restaurant business out of the premises.

3. Crum & Forster is a Delaware citizen, being a Delaware corporation with its principal place of business in Wilmington, Delaware.

4. This Court has subject matter jurisdiction over this matter pursuant to Title 28, U.S.C. § 1332(c)(1) because there is complete diversity of citizenship of the parties and the amount in controversy exceeds \$75,000.

5. Venue is proper in this Court pursuant to Title 28, U.S.C. § 1391 because the events giving rise to its claims occurred in this judicial district. Additionally, Crum & Forster does

business and/or transacts business in this judicial district and, therefore, it is subject to personal jurisdiction in this judicial district and resides here for venue purposes.

6. Crum & Forster issued to J&J an insurance policy effective October 3, 2019 through October 3, 2020 (“the insurance policy”, a copy of which is attached to this Complaint as Exhibit A).

7. Under the insurance policy, Crum & Forster insured J&J against direct physical loss or damage to the Building and to business personal property within the Building caused by a collapse of any part of it if the collapse is caused by decay that is hidden from view.

8. Under the insurance policy, Crum & Forster also insured J&J against loss of business income it sustained due to the necessary suspension of its restaurant operations caused by a collapse of any part of the Building if the collapse is caused by decay that is hidden from view.

9. On or about May 29, 2020, while the insurance policy was in full force and effect, the Building sustained direct physical damage, caused by a collapse of part of its floor area, due to decay that was hidden from view. As a result, the Building cannot be occupied for its intended purpose as a restaurant, resulting in a loss of business income due to the necessary suspension of its restaurant operations (“the collapse loss”).

10. J&J notified Crum & Forster of the collapse loss and submitted a claim for benefits under the insurance policy.

11. J&J has substantially performed all conditions required by the insurance policy to be performed by it, requested of it, and/or not waived by Crum & Forster including, but not limited to (a) paying the premium for the insurance policy, (b) giving prompt notice of the collapse loss, (c) cooperating with Crum & Forster in its investigation of the loss and the subsequent claim, and (d) filing suit against Crum & Forster within two years of the loss.

12. Although requested to do so, Crum & Forster has failed and refused to pay J&J for the actual cash value of the collapse loss to the Building, which failure and refusal constitutes a breach of the insurance policy.

14. Although requested to do so, Crum & Forster also has failed and refused to pay J&J for the loss of business income resulting from the necessary suspension of its restaurant operations caused by the collapse loss, which failure and refusal constitutes a breach of the insurance policy.

15. These breaches of the insurance policy were and are the direct and proximate cause of damage to J&J in an amount in excess of \$75,000.

WHEREFORE, Plaintiff, J&J Fish on Center Street, Inc., prays for judgment in its favor and against Defendant, Crum & Forster Specialty Insurance Company, in an amount in excess of \$75,000, plus prejudgment interest and costs.

Plaintiff demands a trial by jury.

/s/ Christina M. Phillips
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